IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 966 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHAVINBHAI SURESHBHAI SHAH
Versus
STATE OF GUJARAT AND ANOTHER

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Appearance :
MR KN PATEL for the applicant.
MS ML SHAH, ADDL. PUBLIC PROSECUTOR for Respondent No.1.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 24/01/2006

ORAL JUDGMENT

By filing this petition, the petitioner has prayed for quashing

Inquiry Case No. 49 of 1991 and M. Case No. 37 of 1991 being registered as Criminal Case No. 230 of 1992 pending before the learned Judicial Magistrate First Class Bayad.

The aforesaid complaint is filed by respondent No.2 before the Judicial Magistrate First Class on the ground that the accused has committed an offence under section 138 of the Negotiable Instruments Act as the cheque in question which was given had bounced.

Learned advocate for the petitioner submitted that the dispute between the parties is settled as per the settlement deed at Annexure 'B'. He, therefore, submitted that the complaint can be quashed in view of the aforesaid settlement. However, unfortunately, the notice is yet not served on the original complaint as according to Mr. Patel there was some mistake in giving address of the respondent in this petition.

This matter is pending since 1994. I am, therefore, of the view of that instead of keeping this matter pending any further, it would be just and proper to dispose of this application by giving a direction to the learned Magistrate to record the settlement, if any, arrived at between the parties and pass appropriate orders in accordance with law. It will be also open to the petitioners to move the learned Magistrate and to produce the settlement at Annexure 'B' before the learned Magistrate, and the learned Magistrate may also consider the said settlement. Ultimately, if the dispute if settled, learned Magistrate may pass appropriate order since the Court is informed that it is a compoundable offence.

In view of the aforesaid directions, learned advocate for the petitioner does not press this petition at this stage. The petition stands disposed of accordingly, with liberty to the petitioner to file a fresh petition if necessary. Rule is discharged with the aforesaid observations.

Registry to send writ of this order forthwith.

[P. B. MAJMUDAR, J.]

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